

Securities and Exchange Commission

§ 200.735-10

representation that it has adopted screening measures which will effectively isolate the individual lawyer disqualified under paragraph (a)(1) of this section from participating in the particular matter or matters and from sharing in any fees attributable to it. It will be considered significant for purposes of this determination that:

(i) The firm had a pre-existing securities law practice prior to the arrival of the disqualified attorney;

(ii) The matter was previously the subject of consideration by the firm or the client was already advised by the firm;

(iii) In cases where the matter or client became the subject of consideration by the firm subsequent to the firm's employment of the lawyer individually disqualified, that the matter was not brought to the firm because of the disqualified attorney.

(3) Notwithstanding the existence or non-existence of any of these factors, no waiver will be issued if the proposed representation would create a significant appearance of impropriety or would otherwise adversely affect the interests of the government.²³ All proceedings with respect to waivers shall be a matter of public record except to the extent that such public disclosure might violate attorney-client privilege or breach the attorney's obligation to preserve the confidences and secrets of this or her clients, reveal the existence of ongoing private investigations, interfere with law enforcement proceedings, or otherwise be inconsistent with the public interest.

(e) Persons in doubt as to the applicability of any portion of this section

may apply for an advisory ruling of the Commission.²⁴

[45 FR 36064, May 29, 1980, as amended at 50 FR 23669, June 5, 1985]

§ 200.735-9 Indebtedness.

(a) The Securities and Exchange Commission considers the indebtedness of its members and employees to be essentially a matter of their own concern and will not be placed in the position of acting as a collection agency or of determining the validity or amount of contested debts. Nevertheless, failure on the part of an employee without good reason and in a proper and timely manner to honor debts acknowledged by him or her to be valid, or reduced to judgment by a court, or to make or to adhere to satisfactory arrangements for the settlement thereof, may be a cause for disciplinary action. In this connection each member and employee is expected to meet his or her responsibilities for payment of Federal, State and local taxes. For purposes of this section, *in a proper and timely manner* means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his or her employer.

(b) Compensation due members and employees is subject to garnishment for child support and alimony obligations. (42 U.S.C. 659).

§ 200.735-10 Miscellaneous statutory provisions.

Each member and employee is responsible for acquainting himself or herself with each statute that relates to his or her ethical and other conduct as a member or employee of the Commission and of the Government, including the statutory provisions listed below. Violations of any of these statutes are deemed to be violations of the rules in this subpart M as well.

(a) House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12,

²³ For example, no waiver will be granted if, during the course of representing a client who has an interest with respect to a matter before the Commission, a firm employs, or accepts as a partner, a member of the staff or of the Commission who at any time during the course of that representation had direct and substantial responsibility for the same matter, and whose departure would result in a significant adverse impact upon that matter at the Commission.

²⁴ Attention of former members and employees is directed to Formal Opinion 342 of the Committee on Ethics of the American Bar Association, 62 A.B.A.J. 517 (1975) and to 18 U.S.C. 207.